

EXHIBIT B

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PINAL

THE STATE OF ARIZONA,)	2 CA-CR 2014-0034
)	
Plaintiff,)	No. CR201103026
)	
-vs-)	
)	
FERNANDO SEGOVIANO ALMANZA,)	
)	
Defendant.)	
)	

Florence, Arizona
October 1, 2013
8:46 a.m.

BEFORE: The Honorable Boyd T. Johnson,
Judge of the Superior Court

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SUPPLEMENTAL RECORD

JURY TRIAL, DAY 2

(Opening Statements)

(COPY)

PREPARED FOR:
Arizona Attorney General
Criminal Appeals Section

REPORTED BY:
Jacquelyn A. Allen, RPR
AZ Certified Reporter No. 50151

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A P P E A R A N C E S

On Behalf of the State:

PINAL COUNTY ATTORNEY'S OFFICE
By: Matthew Long, Deputy County Attorney
Bureau Chief
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Thomas Kohler, Deputy County Attorney
P. O. Box 887
Florence, Arizona 85132

On Behalf of the Defendant:

COOPER & RUETER, L.L.P.
By: Paul Green
P. O. Box 15005
Casa Grande, Arizona 85130-5005

ALSO PRESENT:

Detective Randy Snyder, Plaintiff's Case Agent
Patrick Cote, Defense Investigator
Laura Anderson, Court Interpreter
Sabine Michael, Court Interpreter

Florence, Arizona
September 30, 2013
8:48 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(Proceedings occurred prior to opening statements which were reported and previously transcribed. The following proceedings were held in open court with the presence of the jury and Laura Anderson, court interpreter.)

STATE'S OPENING STATEMENT

MR. LONG: The Defendant's a hunter, but not a regular hunter. Oh, he's a poacher. A poacher who already had his prey selected. What he searched for, this poacher, was the right time, place, and manner where he could snatch up his prey. His prey was 4-year-old Ada, and the day he chose was October 22nd, 2011, when he lured 4-year-old Ada to a hidden, isolated place where he forced his finger into her vagina.

He picked this hidden place so that if she ever told, it would be his word against the word of a child. He controlled everything so that she wouldn't believe, be believed, and so he could get away. But there's one thing he couldn't control. He couldn't control Ada's body and the truth that it would tell when he scratched the inside of her vulva with his finger.

1 And now the Defendant's going to ask you to
2 ignore that medical evidence, to ignore the truth that
3 her body tells, and to believe that she made it up or
4 was convinced to lie about what happened. At the end of
5 this trial, ladies and gentlemen, your verdict will
6 decide which one that is.

7 This poacher was able to select his prey,
8 was able to find that little girl because he had access
9 to her. And he had access to her because he worked on a
10 ranch, a ranch near Dudleyville, and this is the Double
11 Check Ranch, a cattle ranch that puts food on our
12 community's table.

13 And Ada's mother, Kathryn Quinn, worked on
14 this ranch as head butcher and as the manager of the
15 packing house, and as a result of that job, she was
16 given a home on this property. And she spent most of
17 her time, hours and hours a day, working in this
18 building right here, the cutting house, where she worked
19 as a butcher cutting up the animals and grinding meat
20 and doing what's necessary to provide food on our
21 community's table.

22 And the Defendant was a ranch hand. Worked
23 fixing fences and doing various things. Kind of a
24 part-time employee. But as a result of his work there,
25 trusted to work, trusted to do the job as an employee,

1 he was also trusted to be around Kathryn Quinn's family,
2 which includes Ada, her older brother, Jack, and her
3 younger brother, Arlo. And the Defendant did have
4 access to these kids.

5 In fact, these kids, who loved to work on
6 the ranch, liked to play there. They had a yard and a
7 swing set, but they also had access to the animals.
8 They had chores, and one of those chores included taking
9 care of some pigs that Ada's mom had. And the pigs were
10 back here, kind of tucked back behind the ranch.

11 And the Defendant also helped out with
12 those pigs at times, so he knew the lay of the land and
13 he knew what this setup was. And he knew that those
14 kids, Ada, had one pig in particular -- she loved Tinker
15 Bell, a larger black pig -- and that she liked to go
16 feed the pigs, liked to help her brother feed the pigs,
17 water the pigs. Although she was too young to really do
18 anything about it or to help out with the chores, she
19 liked to be around them.

20 And the Defendant, put it this away, having
21 already selected his prey, realizing that this would be
22 a good place to strike -- the pig area is very isolated
23 with these mesquite trees, and you can see some of the
24 views that if you're looking towards there, how hidden
25 and isolated it would be. This poacher, able to set

1 this trap, isolated his prey from her family and those
2 that protect.

3 So he looked for the day and the time. And
4 that day came on October 22nd, 2011, when he convinced
5 Ada to go over to the pigs, to look at the pigs. And
6 she did. She was wearing a flowered pink dress, or
7 pink, green, and white dress, and that's what she was
8 playing in that day. Maybe it was the dress; maybe it
9 was something else. The Defendant decided this is the
10 day I can strike.

11 So he convinces Ada to leave the protection
12 of her home and that front yard, knowing that her mother
13 would be busy for hours in that cutting house working
14 away. He would only need to contend to isolate her from
15 her older brother, Jack, because Jack was there with the
16 pigs as well. It was his job to take care of the pigs,
17 although the Defendant would help him at times lift
18 things, water the pigs, do other things. But Jack was
19 there.

20 And this is the path that they'd take in
21 order to get to the pigpen area. They'd walk through
22 this corral area, across some fences, have to navigate
23 through this corral, and would come to this gate here.
24 And that's how these kids, and Jack in particular, would
25 go when he'd take the food with his little wagon, 50

1 pounds or 25 pounds of food, to head over to the pigs,
2 to open that gate, and then stand a good distance, many,
3 many, many yards until you got to the pigpens. And this
4 is a view inside the gate of those pens, the location,
5 the place where this man snatched up his prey.

6 But Jack was there. And the Defendant
7 convinces him, you know, go get some treats for the
8 kids. He knows where those are, and those were on the
9 other side of the house or over where the house and the
10 packing area was. So Jack, willing to do that, not
11 thinking anything about it, not -- him having already,
12 that is, the Defendant, gained the trust of this family,
13 of Jack and Ada, as a worker.

14 Jack goes and he gets the treats, and
15 that's the opportunity. The Defendant controlled
16 things, a small window, knowing Jack would be back,
17 knowing Jack was just there, knowing that if Ada told,
18 no one would believe that he did this because Jack was
19 there or nearby. Crafty like a fox.

20 But that gave the opportunity he needed for
21 Jack to walk back through that area, through the corral,
22 through those gates, to find the treats for the pigs, to
23 come back. And in that moment, the Defendant took that
24 opportunity and finally completed his hunt by pulling
25 down her underwear and forcing his finger into her

1 vagina.

2 At some point Jack comes back and the
3 Defendant stops. And Ada's now left there alone,
4 isolated, confused as to what happened. And the
5 Defendant, like a fox in a henhouse, disappears, because
6 around that time was the end of his shift. And he's
7 gone, convinced that if Ada tells, it will be his word
8 against the word of a child.

9 And these are the mesquite trees, the
10 isolation and cover, and this is the trap that was set
11 and the place where Ada was attacked and the place where
12 the Defendant left his mark, both emotionally and
13 physically.

14 Ada goes back with her brother, again
15 processing what happened, not -- as a 4-year-old, not
16 understanding what this means, but tells her brother
17 something. And her brother tells her, You need to tell
18 mom. And eventually she does.

19 She goes into mom while she's working,
20 distracted, doing her job, and she says something,
21 talking about the Defendant's fingernails and how sharp
22 they are. Mom's confused, asks her to clarify. And she
23 demonstrates what he did, talking about how he scratched
24 her. Police are called, an investigation begins.

25 But how do you investigate, how do you

1 prove something that happened when the person planned it
2 to get away, leaving no evidence? Well, as with a fox
3 in a henhouse, sometimes the best evidence is the
4 evidence left behind by that fox, feathers, claw marks.
5 The Defendant left his own claw mark on this little
6 girl.

7 It wasn't discovered right away. Mom takes
8 Ada to the police. Police are called, and they start an
9 investigation. While she's waiting to be talked to,
10 while Ada's waiting, she has to go to the bathroom. Mom
11 takes her to the bathroom. Ada talks about that it
12 burns when she pees. And that's when mom discovers that
13 the Defendant left his mark. And Ada's body told the
14 truth, the same truth that she told: Fernando stuck his
15 finger in me and he scratched me.

16 They find blood on Ada's underwear. But
17 these officers, these investigators, don't just say,
18 Well, that's it, we're done. They look, and they think,
19 Well, what else could have caused this injury? And they
20 look at the underwear. And there's something
21 significant, not about what's there, but about what's
22 not there.

23 And what they see is that there's no rips
24 or tears. I mean, after all, this is a little girl who
25 walks around a ranch that has fencing and barbed-wire,

1 but they observe that without any damage to the
2 underwear, no rips, tears, the injury bypassed that
3 underwear. It bypassed it exactly how Ada said it did,
4 the Defendant pulled her underwear down and stuck his
5 finger in her.

6 With this information, Ada is taken to a
7 medical exam. Now, she's injured. She needs to be
8 treated. And they go to the Tucson Medical Center and
9 speak to Dr. Klein. As part of the diagnosis and as
10 part of treatment, they talk to Ada. And Ada tells
11 them -- that is, Dr. Klein -- Fernando asked me if I
12 wanted to go check the pigs with him. When we went to
13 check the pigs, he pulled my panties down and he was
14 kissing me. He put his fingers inside me, and his
15 fingernails are so sharp that they scratched me. Very
16 clear, very precise, a sensory experience.

17 Dr. Klein observes her most sensitive areas
18 and sees a superficial abrasion. An abrasion. Not a
19 cut, not a tear, not a laceration, an abrasion. And
20 it's at the base of the left labia minora or inside the
21 vulva. Dr. Klein, who doesn't have the same training to
22 deal with kids and victims of sexual abuse, sends her to
23 a Sexual Assault Nurse Examiner, Sharon Welch.

24 Sharon Welch also speaks to Ada as a
25 treating medical personnel and gets some information.

1 And Ada very candidly tells the woman that Fernando
2 stuck his fingers and his nails in me where I go pee
3 from. He told me to get on his lap, he pulled my
4 panties down, then he put his fingers inside me. He
5 kissed me on the side of my check. He touched my butt,
6 too. Same concepts, same description, but different
7 words. The words of a child relating what she
8 experienced.

9 Nurse Welch also examines her and takes
10 some photos as well that are called colposcope pictures,
11 and you'll hear about those. And that -- it's a
12 medical -- it's a medical instrument that takes
13 pictures, in this case of victims of sexual abuse and
14 the genital area. And she takes those pictures. But
15 she observes an injury, observes an abrasion.

16 Now, Dr. Klein and Nurse Welch offer an
17 opinion based on this, based on their observations, and
18 they say this is consistent with a finger, and it's
19 exactly what you would expect given what this little
20 girl said. Her body is telling the truth that her mouth
21 already spoke, and these two medical professionals
22 confirm it.

23 These doctors offer other opinions and tell
24 these detectives. But could it have been caused by
25 something else? What about barbed-wire? They say, This

1 is not a barbed-wire injury. There was no other
2 injuries on her, her underwear wasn't damaged, and this
3 is an abrasion, this isn't a cut. There's no bruising
4 or anything else outside of -- on the outside of her
5 body or the outside of her vulva. This is a friction
6 injury consistent with a finger.

7 With this information the detectives go and
8 get the Defendant's story. They contact him and they
9 speak with him. And you'll have an opportunity to hear
10 about that interview. You'll hear that Mr. -- the
11 Defendant, although a Spanish speaker and that's his
12 primary language, speaks English, understands English
13 and speaks English.

14 And as the detectives speak with him, he
15 answers them. He responds in English. And they ask him
16 about what happened the day before. And at times they
17 do use a Spanish interpreter, and we're not saying he's
18 the best English speaker, but he certainly understood,
19 based on his answers.

20 And Detective Snyder speaks with him,
21 knowing that this information is there, knowing that
22 Ada's body spoke the truth and revealed the truth that
23 Ada told. And he confronts him and says, You know what?
24 Tell me about what happened yesterday.

25 And the Defendant says, Nothing. Nothing

1 happened.

2 They ask him who he knows, and he says, I
3 know Pablo, known as Paul. He's the owner.

4 He says he doesn't know the little girl's
5 name when he's asked about the little girl, but
6 acknowledges there was a little girl. But then he
7 changes a little bit and says, You know, I did see the
8 little girl over by the pigs. Focuses in on where he
9 saw her, acknowledging he was alone with her, just as
10 Ada said.

11 And he's asked, Well, did you ever touch
12 her?

13 He said, No, I never touched her. Never
14 put my hands on her.

15 Detective pushes him a little bit and says,
16 Not sure that I believe you. She says you touched her.

17 Well, I may have. I may have. I may have
18 touched her, I may have picked her up.

19 He says, Oh. Continues on and pushes him.

20 And the detectives do something. They
21 tell -- they give a ruse and tell the Defendant, Well,
22 you know, your DNA, your skin was found on her. It
23 wasn't, and it wasn't expected to be, because the
24 officers, when they take him in and they speak to him,
25 they look at his hands and they notice that they're

1 clean. Having worked on the farm earlier that day -- or
2 I'm sorry -- early the day before, he washed his hands a
3 number of times.

4 And you can see this from the videos that
5 these aren't the hands of somebody who just got done
6 working on fences and working with pigs. And they see
7 that and they know that obtaining DNA is going to be
8 very, very unlikely given his -- the fact that he washed
9 his hands. But they tell him anyway, you know, Your DNA
10 is on her. Your skin cells are on her.

11 And that's when he changes his story. And
12 he says, Well, I might have picked her up. I might have
13 put her on my lap. Telling a little truth, because Ada
14 said, He put me on his lap. He doesn't know that, but
15 he confirms what Ada said.

16 And then pushed a little more, the
17 Defendant says, Well, I might have kissed her on the
18 cheek -- exactly as Ada said -- but that's it. No other
19 touching, nothing else.

20 They ask him if he might have slipped or
21 put his finger up in near her vagina, and he says,
22 Absolutely not. And then he changes a little bit and
23 says, All right, I might have touched her butt. I might
24 have picked her up and cupped her butt. But that's it,
25 nothing more. Again, exactly as Ada said, He touched my

1 butt, too. And the Defendant, with his own words,
2 confirms it, but ultimately denies putting his finger in
3 her, despite the truth that her body revealed.

4 Although his hands had been washed, the
5 detective's attempt to get scrapings from his nails and
6 take his fingernails to see if Ada's DNA -- the skin had
7 been somehow on his hands, knowing that the way DNA
8 works, how volatile it is, especially skin cells, that
9 that was unlikely since he had washed his hands. But
10 they take it, as good investigators do. And as
11 expected, Ada's skin cells aren't on his hands, given
12 the fact that he's already washed them.

13 But this isn't the last statement that the
14 Defendant makes. The Defendant meets a man named John
15 Boggs. And John Boggs is in jail, and he's in jail for
16 a domestic problem he had with his wife. And John Boggs
17 speaks Spanish and is in the same pod, the same area as
18 the Defendant, and he helps the Defendant. And he helps
19 him because he believes him. He believes he was wrongly
20 accused and he's in there and he shouldn't be. And so
21 he helps him write letters, helps him do some writing,
22 talks to him in Spanish.

23 But then he's surprised when the Defendant
24 finally tells him, I don't understand why they're
25 charging me with having sex with her. All I did is put

1 my finger in her to about the first knuckle.

2 That's when John Boggs steps back and says,
3 I'm going to tell what he said, because you don't do
4 this to kids.

5 He tells John other things, that he
6 would -- wanted to date Ada's mom, that Ada's mom kind
7 of rebuffed him, turned him down, but repeatedly says
8 that he puts his finger just to the knuckle. Says that
9 he's worried about DNA, worried about that coming back,
10 even though he washed his hands. Admits to John that he
11 washed his hands and he's worried about that, but he's
12 still confused. Why are they charging me with having
13 sex with her when all I did was put my finger in her,
14 confirming once again the truth that Ada's body
15 revealed.

16 Investigators want to be sure about the
17 evidence, be sure about what they have, and so they take
18 these colposcope pictures I spoke about that Sharon
19 Welch took, and they sent them independently to a nurse
20 practitioner who's got a specialization in dealing with
21 injuries and children of -- that have suffered physical
22 and sexual abuse. And Jackie Hess is that nurse
23 practitioner. And she looked at just the photos, knows
24 nothing about this case but the photos, and
25 independently says, This is a friction injury. This is

1 an abrasion. I think a finger or a penis would cause
2 this.

3 Said, Well, wait a minute. What about
4 barbed-wire? And she was asked by the detectives.

5 And she said, No, that's not that type of
6 injury and there's no other injuries outside,
7 confirming, again, the truth that Ada's body tells, that
8 Ada herself had already told, that the Defendant was a
9 poacher and she his prey, that he set it up so it would
10 be her word against his, controlling everything so he
11 could get away, not expecting the mark he left behind.

12 All these three doctors confirm what Ada
13 had already told.

14 Ladies and gentlemen, at the end of this
15 trial I'm going to ask you to find the Defendant is a
16 poacher, to find that Ada was his prey, that he searched
17 for the time, place, and manner where he could snatch
18 her up. He did it so no one would know what he did, so
19 he could get away.

20 And now he's going to ask you to ignore the
21 truth that her body tells and to believe that she made
22 it up or was convinced to make it up and try to explain
23 that injury in a way that isn't supported by the facts
24 or the science. And later, at the end of this trial,
25 your verdict will decide which one it is.

1 THE COURT: Thank you, Mr. Long.

2 Mr. Green, would you like to make an
3 opening statement at this time?

4 MR. GREEN: I would, Your Honor.

5 THE COURT: All right, sir.

6

7 **DEFENDANT'S OPENING STATEMENT**

8 MR. GREEN: I want to thank you again for
9 being here and for taking this as seriously as you do.

10 This is an important trial. The evidence
11 that the State talks about, some of it exists, some of
12 it is questionable, and none of it is absolutely
13 definitive of what happened in this case. You're going
14 to have to decide based on what you hear whether or not
15 the little girl is telling the truth and whether or not
16 this actually happened.

17 The State is saying that Ada's statements
18 are corroborated by physical evidence of an injury
19 that's located at the lower end of the -- inside the
20 vulva but -- inside the labia but under the vulva of her
21 vagina. It's an abrasion, a friction injury, an injury
22 that happens when two things rub together. The doctors
23 are going to say that this is consistent with a finger
24 or a fingernail, but it can also be consistent with so
25 many other things that that evidence alone cannot

1 possibly convict my client.

2 My client was a hard worker. He worked on
3 the ranch. He was at the ranch for approximately six
4 months prior to this additional family joining the
5 ranch. He worked for Paul, he did not work for Katie.
6 When Katie and her family came to the ranch, she started
7 working there, then eventually moved her family into
8 that mobile home that the State showed you in the
9 pictures.

10 And she lived there on the ranch with her
11 two children. And her two children, while she was
12 working, were playing -- would play around the ranch.
13 They would run around, go see the animals, climb the
14 fences, play on the -- there's a cattle trailer there
15 for transporting cattle. They would play on that.
16 There were all kinds of ways that a child could get
17 injured on this ranch.

18 (The proceedings resumed with the presence
19 of Sabine Michael, court interpreter.)

20 MR. GREEN: Now, there's blood in her
21 underwear, the underwear that she was wearing on the day
22 in question. The question is, did that come from an
23 injury that was incurred by my client, or did that come
24 from some other injury that had happened either earlier
25 in the day or later in the day or whatever? There's no

1 evidence that ties the two together. It's all
2 circumstantial. It matches in some ways; it doesn't
3 match in other ways, and you are going to have to decide
4 what those ways are.

5 It's the State's burden to prove that my
6 client is guilty; it's not my client's duty to prove
7 that he's not. The State's going to put on a lot of
8 evidence. I'm going to put on very little evidence, and
9 the reason for that is because it's the State's burden
10 to prove this.

11 So all I can ask at this point is that you
12 look carefully at the evidence. The statements made by
13 Mr. Long are not evidence, nor are the statements that
14 I'm making right now. The evidence will be presented to
15 you by witnesses, by physical objects, and you'll have
16 to determine based on that, not based on the statements
17 that we make.

18 All I'm asking is that you give my client
19 the constitutional right that he has to be presumed
20 innocent until the State proves him guilty.

21 (Further proceedings were reported and
22 previously transcribed.)

23 ---o0o---
24
25

C E R T I F I C A T E

I, Jacquelyn A. Allen, RPR, a Certified Reporter in the State of Arizona, do hereby certify that the foregoing pages 1 - 21 constitute a full, true, and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

SIGNED and dated this 22nd day of April, 2014.

JACQUELYN A. ALLEN, RPR
Certified Reporter No. 50151
For the State of Arizona